



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

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**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT AND
SECRETARY'S ORDER**

Pursuant to 7 Del. C. Chapters 40 & 60

Order No. 2007-S-0039

*PERSONALLY SERVED BY AN
ENVIRONMENTAL OFFICER*

Issued To:

Lencraft, LLC
24915 Godwin School Road
Millsboro, DE 19966

Registered Agent:

The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

Dear Sirs:

This is to notify Lencraft, LLC (Respondent) that the Secretary of the Department of Natural Resources and Environmental Control (Department) has found Respondent in violation of 7 Del. C. Chapters 40 & 60. Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order (Notice and/or Order).

BACKGROUND

Respondent originally received an approved Sediment and Stormwater Plan dated November 9, 2005 (Approved Plan) for Phase I (248 acres) Plantation Lakes Development from the Sussex Conservation District (SCD), the Department's Delegated Agency for implementation of the *Delaware Sediment and Stormwater Regulations* (the Regulations) within its area of jurisdiction. This includes unincorporated Sussex County as well as all incorporated municipalities within Sussex County.

After receiving numerous complaints from an adjacent homeowner regarding significant sediment discharge to his property by Respondent the site was referred to the Department for enforcement and technical review of the plan. The Sediment and Stormwater Program's engineers reviewed the approved plan and met with the Respondent's design engineers and the

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engineers reviewed the approved plan and met with the Respondent's design engineers and the SCD engineers. As a result of the review the developer chose to relocate the pond outfall for Pond 1D. The outfall modification plan was approved in April 2006.

On November 17, 2006, the Department issued a Notice to Comply/Notice of Violation to Respondent identifying seven (7) specific measures to bring the site into compliance with the approved sediment and stormwater plan. On November 21, 2006 and December 1, 2006, the Department conducted a site inspection. Two remaining items from the November 17, 2006 Notice to Comply/Notice of Violation needed to be complied with; (1) removal of sediment from homeowner's wetlands and (2) the stabilization review after December 8, 2006. A site meeting with EPA was held on December 15, 2006, to specifically address the wetland restoration.

On January 8, 2007 and January 23, 2007, the Department conducted a site inspection. There were a number of compliance issues that needed to be addressed, such as the numerous instances of stabilization that will be detailed below. On April 20, 2007, the Department conducted a site inspection. There was a sediment discharge to Betts Pond due to failure to complete corrective action items identified in the Department's January 23, 2007 site inspection report. During the period from the Department's January 23, 2007 site inspection to their April 20, 2007 site inspection, weekly inspections were conducted of the site by the Respondent's Certified Construction Reviewer (CCR). The CCR reports noted deficiencies that needed correction.

On May 18, 2007, the Department conducted a site inspection. The site continued to be out of compliance with the Approved Plan and in violation of their National Pollutant Discharge Elimination System (NPDES) permit.

FINDINGS OF FACT

1. On November 9, 2005 SCD approves Respondent's Sediment and Stormwater Plan.
2. On April 12, 2006 an outfall modification plan was approved by the Sussex Conservation District so as not to discharge sediment onto adjacent private property.
3. On November 14, 2006 SCD referred site to the Department for enforcement and technical review of the plan.
4. On November 17, 2006 the Department issued a Notice to Comply to Respondent identifying seven (7) specific measures to bring the site into compliance with the approved sediment and stormwater plan.
5. On November 21, 2006, the Department conducted a site inspection. It was noted that the site was nearing compliance; however, stabilization of the site was still in progress.